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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/599,095	06/21/00	ARMSTRONG B	

QM32/0705

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EXAMINER
JONES, S

ART UNIT	PAPER NUMBER
3713	3

DATE MAILED: 07/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)	
	09/599,095	ARMSTRONG, BRAD A.	
	Examiner	Art Unit	
	Scott E. Jones	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)
16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
18) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
19) ☐ Notice of Informal Patent Application (PTO-152)
20) ☐ Other: .

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed June 21, 2000 fails to comply with 37 CFR 1.98(a)(1), which requires a list of all patents, publications, or other information submitted for consideration by the Office. It has been placed in the application file, but the information referred to therein has not been considered.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 7, 12, and 13 of U.S. Patent No. 6,135,886. Although the conflicting claims are not identical, they are not patentably distinct from each other because elastomeric materials have flexible properties, at least three readable states of an active element read on at least three levels of electrical resistance.

4. Claim 2 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 17 of U.S. Patent No. 6,135,886. Although the conflicting claims are not identical, they are not patentably distinct from each other because at least nine readable states of an active element read on at least nine levels of electrical resistance.

5. Claim 3 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 18 of U.S. Patent No. 6,135,886. Although the conflicting claims are not identical, they are not patentably distinct from each other because at least 129 readable states of an active element read on at least 129 levels of electrical resistance.

6. Claim 4 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9 and 14 of U.S. Patent No. 6,135,886. Although the conflicting claims are not identical, they are not patentably distinct from each other because material reads on pressure-sensitive variable-conductance material.

7. Claim 5 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 10 and 15 of U.S. Patent No. 6,135,886. Although the conflicting claims are not identical, they are not patentably distinct from each other because being made primarily of thermoset rubber reads on being made of thermoset rubber.

8. Claim 6 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11 and 16 of U.S. Patent No. 6,135,886. Although the conflicting claims are not identical, they are not patentably distinct from each other because dome-cap structured to produce a user discernable tactile feedback upon depression of the dome-cap reads on injection molded dome-cap produces a user discernable tactile feedback upon depressive pressure being applied to said injection molded dome-cap.

9. Claim 7 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 7, 12, and 13 of U.S. Patent No. 6,135,886. Although the conflicting claims are not identical, they are not patentably distinct from each other because at least three readable states of an active element read on at least three levels conductivity of an active element.

10. Claim 8 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 17 of U.S. Patent No. 6,135,886. Although the conflicting claims are not identical, they are not patentably distinct from each other because at least nine readable states of an active element read on at least nine levels conductivity of an active element.

11. Claim 9 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 18 of U.S. Patent No. 6,135,886. Although the conflicting claims are not identical, they are not patentably distinct from each other because at least 129 readable states of an active element read on at least 129 levels conductivity of an active element.

12. Claim 10 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9 and 14 of U.S. Patent No. 6,135,886. Although the conflicting claims are not identical, they are not patentably distinct from each other because material reads on pressure-sensitive variable-conductance material.

13. Claim 11 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11 and 16 of U.S. Patent No. 6,135,886. Although the conflicting claims are not identical, they are not patentably distinct from each other because dome-cap structured to produce a user discernable tactile feedback upon depression of the dome-cap reads on injection molded dome-cap produces a user discernable tactile feedback upon depressive pressure being applied to said injection molded dome-cap.

14. Claim 12 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 10 and 15 of U.S. Patent No. 6,135,886. Although the conflicting claims are not identical, they are not patentably distinct from each other because being made primarily of thermoset rubber reads on being made of thermoset rubber.

15. Claim 13 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 7, 11-13, and 16-17 of U.S. Patent No. 6,135,886. Although the conflicting claims are not identical, they are not patentably distinct from each other because elastomeric materials have flexible properties, at least three readable states of an active element read on at least three levels of electrical resistance.

16. Claim 14 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 7 of U.S. Patent No. 6,135,886. Although the

conflicting claims are not identical, they are not patentably distinct from each other because elastomeric materials have flexible properties.

17. Claim 15 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 8 of U.S. Patent No. 6,135,886. Although the conflicting claims are not identical, they are not patentably distinct from each other because elastomeric materials have flexible properties.

18. Claim 16 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9 of U.S. Patent No. 6,135,886. Although the conflicting claims are not identical, they are not patentably distinct from each other because injection molded dome-cap reads on injection molded flexible dome-cap.

19. Claim 17 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 7 of U.S. Patent No. 6,135,886. Although the conflicting claims are not identical, they are not patentably distinct from each other because elastomeric material reads on polymer flexible material.

20. Claim 18 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11 and 16 of U.S. Patent No. 6,135,886. Although the conflicting claims are not identical, they are not patentably distinct from each other because dome-cap structured to produce a user discernable tactile feedback upon depression of the dome-cap reads on injection molded dome-cap produces a user discernable tactile feedback upon depressive pressure being applied to said injection molded dome-cap.

21. Claim 19 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 19 of U.S. Patent No. 6,135,886. Although

the conflicting claims are not identical, they are not patentably distinct from each other because elastomeric materials have flexible properties, at least seventeen readable states of an active element reads on at least three readable states of an active element, and at least seventeen different digital values reads on at least three different digital values.

22. Claim 20 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 19 of U.S. Patent No. 6,135,886. Although the conflicting claims are not identical, they are not patentably distinct from each other because at least four digital bits reads on at least two digital bits.

Conclusion

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- O'Mara et al. '812, Asher '285, Rutledge et al. '219, Armstrong '084, Inoue et al. '426, Sayler et al. '317, Takeda et al. '785, Winblad '024, Ono et al. '004, Nishiumi et al. '196, and Jacobs '958 disclose controllers for game machines.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (703) 308-7133. The examiner can normally be reached on Monday - Friday, 8:30 A.M. - 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (703) 308-1118. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1118.

Scott E. Jones
Examiner
Art Unit 3713

SEJ
sej
June 28, 2001

MICHAEL O'NEILL
PRIMARY EXAMINER